

UNITED STATES OF AMERICA,	)	<b>FILED: JULY 29, 2008</b>
	)	<b>08CV4298</b>
Plaintiff,	)	<b>JUDGE GOTTSCHALL</b>
	)	<b>MAGISTRATE JUDGE COX</b>
v.	)	<b>NF</b>
	)	
CONVERTERS INK COMPANY; CRODA	)	
INKS CORP., INC.; CRODA, INC.; E. I. DU	)	<b>CIVIL ACTION NO.</b>
PONT DE NEMOURS AND COMPANY;	)	
EXXON MOBIL CORPORATION; FLINT	)	
GROUP, INCORPORATED; GENERAL	)	
ELECTRIC COMPANY; GENERAL MOTORS	)	
CORPORATION; GEORGIA PACIFIC	)	
CORPORATION; H.B. FULLER COMPANY;	)	
HEXION SPECIALTY CHEMICALS, INC.;	)	
HOOVER UNIVERSAL, INC.; HOUGHTON	)	
INTERNATIONAL INC.; IMPERIAL OIL &	)	
GREASE COMPANY; 3M COMPANY; OXY	)	
USA, INC.; THE SHERWIN WILLIAMS	)	
COMPANY; SUN CHEMICAL; UNITED	)	
STATES STEEL CORPORATION; UNITED	)	
TECHNOLOGIES CORPORATION; V.J.	)	
DOLAN & Co., INC.; THE VALSPAR	)	
CORPORATION; WHIRLPOOL	)	
CORPORATION; and WHITTAKER	)	
CORPORATION, INC.,	)	
	)	
Defendants.	)	
	)	

The United States of America ("United States"), by and through the undersigned attorneys, by authority of the Attorney General of the United States, and at the request and on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges:

### **STATEMENT OF THE CASE**

1. This is a civil action pursuant to Section and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §9607(a), seeking reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the IWI, Inc., Site, in Summit, Cook County, Illinois.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §9607(a) and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this judicial district pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b) and 28 U.S.C. § 1391(b) because the release or threatened release of hazardous substances that gave rise to the claims in this action occurred in this district.

### **DEFENDANTS**

4. Each of the Defendants is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and at all times relevant to the United States' claims, was duly authorized and doing business in this judicial district. The Defendants are further identified in Attachment 1 to this Complaint, which is incorporated herein by reference.

### **GENERAL ALLEGATIONS**

5. The IWI Superfund site (the "Site") which is the subject of the United States' claims, encompasses approximately 1.7 acres, located at 7738 West 61<sup>st</sup> Place in Summit, Cook County, Illinois. IWI, a company owned and operated by Mr. Glenn Wellman, manufactured stainless steel totes and intermediate bulk containers designed to hold liquids. At the Site, IWI was also

in the business of cleaning and repairing the steel totes, barrels, drums and pails that had been used by the Defendants to hold liquid materials containing hazardous substances. In cleaning these containers before repair or modification, waste materials containing hazardous substances were released at the Site as part of IWI's standard operating procedures. IWI scraped or washed out totes and barrels from numerous different sources, flushing the ink, paint, adhesive, oil, and grease waste into on-site sanitary sewer or sumps, let it ooze or run out onto the ground where it went into the soil or ran off site, or piled it up on the ground or in totes, drums, and other containers. As a result of IWI's operations, hazardous substances from numerous different sources came to be commingled in various containers, sumps, sewers and soils at the Site.

6. In the 1980s and again in the 1990s, the State of Illinois filed a judicial action against IWI citing numerous violations of Illinois' hazardous waste laws, and attempted to achieve a court-ordered clean-up of the Site. Illinois was unsuccessful in getting IWI to comply. The facility ceased operating in November 1999, following the death of Mr. Wellman, and thereafter the Site remained in a dilapidated and abandoned state. On May 16, 2002, Illinois requested EPA's assistance in cleaning up the Site following a fire at the abandoned facility on May 13, 2002.

7. In June, 2002, EPA conducted an assessment of the Site and determined that drums stored on the Site were leaking and draining into a nearby drainage ditch. Also, liquids determined to be flammable or ignitable were found leaking from vats and tanks. The soil samples taken by EPA on Site indicated high levels of lead and chromium contamination. Containers such as totes and drums were found scattered inside and outside dilapidated and fire-damaged buildings across the 1.7 acre Site. EPA's sampling showed that flammable and ignitable liquids, with a flashpoint below 140 degrees Fahrenheit, toxic heavy metals such as

antimony, chromium, and lead, as well as various oxidizers and corrosive liquid and solid wastes were present in containers on site.

8. On February 2, 2003, EPA began a removal action to stabilize the situation at the Site and prevent any further release of hazardous substances to the environment, or endangerment to public health. As part of the removal, EPA demolished all structures on site, and recovered and disposed of 52,300 gallons of hazardous liquids, 683 tons of hazardous soils, and 568 tons of hazardous sludge. EPA also recycled or disposed of all drums, totes, bricks, construction and demolition debris.

9. EPA completed its removal action as of October 24, 2003, and incurred response costs of \$2,620,366, which included EPA payroll, indirect costs, and contractor costs associated with the cleanup.

### **CLAIM FOR RELIEF**

#### **CERCLA Section 107(a), 42 U.S.C. § 9607(a)**

10. Paragraphs 1 through 9 of this Complaint are incorporated herein by reference.

11. The IWI Site is a “facility” as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

12. Each of the Defendants by contract, agreement, or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such Defendant, by another party or entity at a facility owned or operated by another party or entity and containing such hazardous substances, within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

As a result of such arrangements, hazardous substances from Defendants were taken to the IWI Site, and the IWI Site contained such hazardous substances at the time EPA performed the removal actions referred to in Paragraphs 7 - 9, above.

13. There have been “releases” and/or “threatened releases” of such “hazardous substances” into the “environment” at the IWI Site, as those terms are defined in Section 101(8), (14), and (22) of CERCLA, 42 U.S.C. §§ 9601(8), (14), and (22).

14. The actions taken, and to be taken, by the United States in connection with the IWI Site constitute “response actions” and the releases or threatened releases of hazardous substances from this facility have caused the United States to incur response costs, as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25). Those response costs are at least \$2,620,366. The response costs incurred by the United States in connection with the IWI Site are not inconsistent with the National Contingency Plan established pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605.

15. Pursuant to Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), the Defendants are liable, jointly and severally, for all response costs incurred and to be incurred by the United States with respect to the IWI Site.

16. Pursuant to Section 113(g) (2) of CERCLA, 42 U.S.C. § 9613(g)(2), the United States is entitled to a declaratory judgment that Defendants are liable for any additional response costs that the United States may incur in responding to the releases or threatened releases of hazardous substances from the IWI Site.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, the United States, respectfully prays that this Court:

1. Enter judgment in favor of the United States and against the Defendants, jointly and severally, for response costs incurred and to be incurred by the United States in connection with the IWI Site, plus interest;

2. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

Date: July 29, 2008

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